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Letter dated 1 October 2002 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General

On behalf of the Government of Colombia, in its capacity as Pro Tempore Secretariat of the Andean Community, I have the honour to transmit to you, herewith, the Andean Charter for the Promotion and Protection of Human Rights (see annex).

I should be grateful if you could have it circulated as a document of the fifty-seventh session of the General Assembly, under agenda item 109.

(*Signed*) Alfonso **Valdivieso**
Ambassador
Permanent Representative

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Annex

Andean Charter for the Promotion and Protection of Human Rights

The Presidents of Bolivia, Colombia, Ecuador, Peru and Venezuela, meeting as the Andean Presidential Council and on behalf of the peoples of the Andean Community:

Inspired by the thinking of the Liberator, Simón Bolívar, who, in his Address to the Constituent Congress of Bolivia, proclaimed that it is a prime desire of all peoples to attain possession of their rights, to exercise political virtues and to enable each individual to acquire the luminous talents and enjoyment that belonging to the human race essentially entails;

Convinced that human rights are inherent to all human beings, and that all are free and equal in dignity and rights;

Considering that the internal legal order of States and international human rights law must provide continuing and complementary protection for human rights;

Committed to respecting and implementing the Charter of the United Nations, the Charter of the Organization of American States, the American Convention on Human Rights — Pact of San José, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights — Protocol of San Salvador, the Inter-American Democratic Charter and other international human rights instruments to which the Andean nations are States Parties;

Determined to defend the objectives and principles set forth in the Universal Declaration of Human Rights, the American Declaration on the Rights and Duties of Man and the United Nations Declaration on the Right to Development;

Recognizing the contribution of the Andean Parliament and, in particular, the principles set forth in the Andean Social Charter adopted on 30 September 1994;

Committed to expanding the increasingly dynamic role played in today's world by the Andean Community, a conglomerate of peoples united by the awareness of a shared past and geography and united in the search for historic goals that will affirm and extend the roots and traditions of their identity;

Intent on consolidating and promoting Andean unity based on recognition of the diversity of their territories, peoples, ethnic groups and cultures, and in the firm belief that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing;

Bearing in mind the recommendations of the Andean Subregional Seminar "Democracy and Human Rights", held in Quito in August 2000, concerning the drafting of an Andean Charter for the Promotion and Protection of Human Rights and cooperation to strengthen the observance of human rights in the Andean region;

Taking note of the valuable contributions derived from the consultations carried out in preparation for this Charter, with Andean Community bodies — particularly the contributions from the Court of Justice of the Andean Community and the Andean Labor Council — and representatives of civil society in the five Andean countries;

Determined to help build a world that is both supportive and respectful of human diversity based on the promotion and protection of human rights, and to foster political, economic and social development in their countries, the focus and ultimate goal being the welfare of the human being;

In accordance with the mandates of the Act of Carabobo, of 24 June 2001, and of the Declaration of Machu Picchu, of 29 July 2001, concerning democracy, the rights of indigenous peoples and the fight against poverty, whereby the Presidents of the Andean countries requested the Andean Council of Ministers for Foreign Affairs to prepare a draft Andean Charter for the Protection and Promotion of Human Rights that would set forth the principles and central issues of community policy on the subject;

Intent on jointly proclaiming the principles, objectives and commitments of the Andean Community regarding the promotion and protection of human rights;

Have agreed as follows:

Andean Charter for the Promotion and Protection of Human Rights

Section I
General principles

Article 1. The member States of the Andean Community recognize that human rights are inherent in the nature and dignity of everyone.

Article 2. They recognize that all human rights must be enforceable and they reaffirm their pledge to respect and enforce the human rights and fundamental freedoms set forth in international instruments and in national legislations, and to adopt the necessary legal and administrative measures to prevent and investigate actions that may constitute violations of human rights, to ensure the effectiveness of constitutional and legal remedies, to try and punish those responsible for such violations and to compensate the victims fully in accordance with the law.

Article 3. They affirm the principle that all human rights and fundamental freedoms are universal, indivisible, interdependent and interconnected and that, consequently, equal and decisive attention must be given to the application, promotion and protection not only of civil and political rights but also of economic, social and cultural rights and the right to development.

Article 4. Within the framework of respect for human rights, they reiterate the obligation and commitment of the countries of the subregion to preserve, protect and defend democracy, as established, inter alia, in the Riobamba Code of Conduct, the Additional Protocol to the Cartagena Agreement "Andean Community Commitment to Democracy" and the Inter-American Democratic Charter.

Article 5. They reiterate the will of the Andean Community member States to accept the decisions of the Inter-American Court of Human Rights and, furthermore, to adopt a constructive attitude and to give a favourable reception to the decisions and recommendations of regional and global non-jurisdictional mechanisms, when applicable, pursuant to relevant human rights treaties and constitutional provisions.

Article 6. They reaffirm their pledge to promote conditions favourable to universal observance and strengthening of systems for the protection of human rights, by signing, ratifying and/or acceding to international human rights instruments and by bringing national legislations into line with international human rights standards.

Article 7. They emphasize that civil society must be encouraged to participate in the preparation and execution of member States' national action plans and programmes in favour of the observance of human rights.

Article 8. They declare that every person, whether a national or a foreigner, within the territory of member States of the Andean Community is entitled to the human rights and fundamental freedoms set forth in international human rights law and in pertinent national legislation.

Article 9. They recognize the right of everyone to file reports, complaints or petitions concerning violations of human rights and fundamental freedoms with judicial organs, ombudsmen and/or pertinent administrative bodies, and to be heard as provided for in national legislations; furthermore, they reaffirm their commitment to support judicial organs and ombudsmen within the sphere of their jurisdiction.

Section II
Discrimination and intolerance

Article 10. They reaffirm their decision to combat all forms of racism, discrimination, xenophobia and any kind of intolerance or exclusion of individuals or communities based on race, colour, sex, age, language, religion, political opinion, nationality, sexual orientation, immigration status or any other condition, and decide to promote national legislations that penalize racial discrimination.

Article 11. Educational plans and programmes on human rights will be strengthened in order to promote a social culture based on tolerance, respect for differences and non-discrimination.

Article 12. They agree to undertake the necessary actions to protect human rights of minorities and to combat any act of discrimination, exclusion or xenophobia directed against, and affecting, them.

Section III
Democracy and human rights

Article 13. The Andean peoples have a right to democracy and their Governments have an obligation to promote and defend democracy, in order to achieve full exercise of all civil, political, economic, social and cultural rights, and the right to development.

Article 14. They reiterate their commitment to the contents of the Inter-American Democratic Charter and of resolution 2002/46 of the United Nations Commission on Human Rights concerning "Further measures to promote and consolidate democracy", especially regarding the essential elements of democracy: respect for human rights and fundamental freedoms, freedom of association, freedom of expression, of opinion, of access to power and the exercise thereof in accordance

with the rule of law; the holding of periodic free, fair and impartial elections based on universal suffrage and secret balloting as an expression of the will of the people; a pluralistic system of political organizations and parties; the permanent, ethical and responsible participation of citizens in the political life of their countries; the separation and independence of powers; transparency and accountability of public administration and a free, independent and pluralistic press.

Article 15. They confirm their accession to the Andean Community Commitment to Democracy, signed in Oporto in 1998, which was to become the Andean democratic clause.

Article 16. They pledge to uphold democratic order in the Andean region, convinced that the observance of democratic values will safeguard the interdependence and mutual reinforcement of democracy, development and respect for human rights and fundamental freedoms.

Article 17. They reiterate their commitment to the Inter-American Democratic Charter (2001), affirm that the observance of democratic order is an indispensable guarantee for the effective exercise of human rights and fundamental freedoms and, consequently, undertake to adopt all possible measures to strengthen it.

Article 18. They recognize the right of every citizen, man or woman, of the Andean Community Member States to elect and to participate in the elections of the Andean Parliament, which shall be held through free, direct and secret universal suffrage.

Section IV
Civil and political rights

Article 19. They reaffirm their commitment to respect and safeguard civil and political rights, in particular the right to life and personal integrity, as set forth in the Covenant on Civil and Political Rights and international instruments on the subject as well as constitutional norms of Member States.

Article 20. They will promote and protect freedom of thought and of opinion and expression and, in particular, ensure that the media can operate freely without interference from political groups, the public or from private pressure groups; access to electronic information media; and access of individuals to information that government authorities and private corporations may have on them, as prescribed by law.

Article 21. They will protect the right of everyone to seek asylum, pursuant to national and regional regulations in effect, and to enjoy its benefits in the event such asylum is granted.

Article 22. They renew the commitment of the Andean Community Member States to implement the provisions of the International Covenant on Civil and Political Rights and of the American Convention on Human Rights concerning the safeguarding of human rights during periods that are officially declared "states of emergency", due to exceptional situations.

Article 23. They will, with the participation of competent public entities and civil society, launch action plans designed to prevent and eliminate, and also to investigate, try and punish, crimes against humanity, including torture and any other

cruel, inhuman or degrading treatment or punishment, forced disappearances and extrajudicial executions.

Section V
Economic, social and cultural rights

Article 24. They reaffirm their commitment to respect and enforce the rights and obligations set forth in the International Covenant on Economic, Social and Cultural Rights and, in particular, to take steps, either individually or with international assistance and cooperation, within the limits of their resources, to progressively attain, through the appropriate means, the full exercise of the human rights recognized in the Covenant, including the right:

1. To have the opportunity to make a living through freely chosen or accepted work;

2. To enjoy just and satisfactory working conditions;

3. To form and join trade unions and to enjoy other labour rights;

4. To social security;

5. To protection and assistance for the family;

6. To an adequate standard of living for the individual and the families, including the right to adequate food, clothing and housing, and to the continuous improvement of their living conditions;

7. To the highest attainable standard of physical and mental health;

8. To education;

9. To culture and to enjoy the benefits of scientific advances and intellectual production.

Article 25. They will promote and protect the rights and guarantees of workers, in accordance with national legislation, international human rights law and labour standards issued by the International Labour Organization.

Article 26. They highlight the relevance of the provisions of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights — Protocol of San Salvador — for the exercise of these rights in the Andean region and reiterate their commitment to implement the provisions of the Protocol in conjunction with those of other international instruments on the subject, and of their national legislations.

Article 27. They endorse the drafting of an optional protocol to the International Covenant on Economic, Social and Cultural Rights to enable the Committee on Economic, Social and Cultural Rights to receive complaints from individuals or groups of individuals regarding alleged violations of any of the rights set forth in the Covenant.

Section VI
Right to development

Article 28. They undertake to comply and to enforce compliance with the principles set forth in the Declaration on the Right to Development (1986) of the United Nations General Assembly and in the international instruments containing provisions on this matter.

Article 29. In order to promote the right to development in the Andean sphere, they will give priority consideration to the following issues:

1. Creation of favourable conditions and design of national and regional development policies with a view to progressively improving the social well-being of the Andean population, on the basis of its active, free and significant participation in development, with a view to the equitable sharing of the benefits thereof.

2. National action and regional cooperation to eliminate the obstacles to development and the fight against poverty, extreme poverty and inequity; promotion of an international economic order that addresses individual rights and the needs, conditions and aspirations of Andean countries and their access to the benefits of the global society.

3. Promotion of subregional, regional and international cooperation so that the outcome of scientific and technological progress may be directed at the economic and social development of nations and the strengthening of international peace and security, pursuant to the principles of the Charter of the United Nations.

4. Concerted action of Andean countries, in cooperation with other countries and groups of countries, to counterbalance the effects of the volatility of financial markets, ensure free access of our goods and services to international markets, and promote the elimination of dumping or subsidies and other practices and policies that impede free trade.

5. Promotion of participation of the population in the decision-making process aimed at its sustainable human development.

6. Representation in international financial entities so that, when structural adjustment policies and other measures related to foreign debt, are formulated account is taken of their impact on the promotion and protection of human rights, in particular economic, social and cultural rights and the right to development, keeping in mind the conditions and social needs of the countries.

7. National and regional governance of Andean countries so that: (a) international financial bodies and debtor countries consider effective mechanisms to ease the foreign debt servicing burden, when required by the situation of the country concerned; and (b) creditor and debtor countries come to understandings to deal with the negative impact that foreign debt servicing may under certain circumstances have on the right to development.

8. Importance of conservation and protection of the environment and appropriate use thereof as a factor of sustainable development, particularly in relation to linking foreign debt and the environment.

Section VII
Right to safe and protected environment

Article 30. They recognize the right of everyone and of societies to a safe and protected environment.

Article 31. They declare that the promotion and defence of the right to a safe and protected environment within the human rights regulatory framework requires taking into account the instruments of international environmental law inter alia, the Convention on Biological Diversity, the Convention on Climate Change, the Convention to Combat Desertification, and in particular, the Regional Biodiversity Strategy for Countries in the Andean Tropics adopted by the Ministers for Foreign Affairs.

Section VIII
Rights of indigenous peoples and communities of African descent

Article 32. They affirm that the Andean Community Member States are multi-ethnic and multicultural. Diversity is a cornerstone and a basic feature of such societies and also a source of wealth; consequently, they reaffirm the right of all peoples and communities in the Andean countries to the preservation and development of their own identities and the consolidation of each country's national unity based on the diversity of their societies.

Article 33. They particularly undertake to promote programmes in favour of intercultural exchange, understood as the preservation and development of the ancestral identities of indigenous peoples and communities of African descent, through the fostering of social spaces for contact, dialogue and interaction between such peoples and communities and the rest of society in Andean countries, based on the reaffirmation and observance of their own identities and cultures.

Article 34. They will adopt effective measures so that educational systems — whatever the level and modality — reflect the values inherent to the cultural and ethnic diversity of Andean countries and incorporate into their curriculums notions and practices that foster an attitude of respect for diversity and advance the purposes of intercultural exchange.

Article 35. They will encourage educational systems to foster intercultural exchange through the development of specific programmes for indigenous peoples — such as bilingual intercultural education — and promote the establishment of study programmes on indigenous and Afro-descendant cultures.

Article 36. They reiterate their pledge to respect and enforce the rights and obligations set forth in international instruments aimed at promoting and protecting the human rights of indigenous peoples and of communities of African descent, in particular the Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries of the International Labour Organization.

Article 37. They recognize that indigenous peoples and communities of African descent, in addition to the human rights their members are entitled to as citizens in their own right are also entitled as groups of people with ancestral roots, to

collective rights, the common exercise of which promotes their historical continuity, the preservation of their identity and their future development.

Article 38. They also recognize that indigenous peoples and communities of African descent, within the framework of national legislations and regulations on human rights, are entitled to maintain and develop their identities and customs in the cultural, spiritual, political, economic and legal spheres; to own and possess the lands or territories they traditionally occupy; to not be displaced from them and, if they are, to return to them; to preserve their own forms of social organization, exercise of authority and administration of justice; to develop and maintain their tangible and intangible cultural heritage; and to protection of their ancestral collective knowledge and exercise of their traditional practices.

Article 39. They further recognize the right of indigenous peoples and communities of African descent, within the framework of national constitutions and legislations and international human rights law, to preserve and promote their traditional practices for the conservation and sustainable use of biological diversity; to participate in the sustainable use, management and enjoyment of natural resources found within their lands or territories; to be consulted about any decisions made concerning the exploitation of non-renewable natural resources found within their lands or territories and any activity affecting the environment and their life styles; to share, whenever possible, the benefits derived from activities related to the management of natural resources within their land and territories; to receive equitable compensation for any damage sustained as a result of such activities; to be consulted and to participate in the drafting, implementation and evaluation of development plans concerning them; and to formulate their own sustainable development plans and take steps to obtain from the States resources for their funding and international assistance.

Article 40. They undertake to adopt the International Declaration on the Rights of Indigenous Peoples currently being drafted within the framework of the United Nations, and the Inter-American Declaration on the Rights of Indigenous Peoples, currently being drafted by OAS, and express their support for the work of the Permanent Forum on Indigenous Issues of the United Nations Economic and Social Council.

Article 41. Recalling that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban, South Africa, 2001) pointed out that indigenous peoples and communities of African descent have been the victims of discrimination, slavery and poverty, they express their commitment to formulate, promote and execute at the national, regional and international levels, strategies, programmes and policies to promote equitable social development and the full exercise of such people's human rights.

Section IX
Rights of groups object of special protection

A. Rights of women

Article 42. They reiterate their commitment to respect and enforce the rights and obligations set forth in the International Convention on the Elimination of All Forms of Discrimination against Women (1981) and its Optional Protocol (1999), the

Convention on the Political Rights of Women (1954), the Inter-American Convention to Prevent, Sanction and Eradicate Violence against Women (1995) and other international and regional instruments on the subject.

Article 43. They will address the following main themes with a view to improving the promotion and protection of the human rights of women in their respective jurisdictions and in the Andean sphere:

1. Protection of women against discrimination — in the public and private spheres — with a view to safeguarding their human rights, in particular their right to life, integrity and personal safety, personal freedom, political participation, work, health and the exercise of sexual and reproductive rights, social security, adequate housing, education, ownership and participation in the economic life of society, and access to effective legal and administrative remedies when their rights are violated.

2. Adoption of programmes to actively promote the participation of women in the public and private spheres of society, incorporation of the gender perspective in public policies and promotion of this perspective in the private sector.

3. Actions to eradicate all forms of violence against women; to fight against impunity of those that commit such violence in public and in private; and to develop mechanisms to offer effective compensation to victims of gender-related violence.

4. Protection against sexual harassment and all forms of sexual and labour exploitation; slavery, smuggling, trafficking of women and girls — particularly for sexual exploitation purposes; and incitement to and forced prostitution, forced pregnancy and sterilization.

5. Actions against all forms of discrimination against women in connection with marriage, consensual unions and family relations, especially with regard to the rights of women during marriage and consensual unions and upon dissolution thereof, and with respect to housework, child-rearing, exercise of sexual and reproductive rights and the property system.

B. Rights of children and adolescents

Article 44. They reiterate their commitment to respect and enforce the rights and obligations set forth in the International Convention on the Rights of the Child (1989), its optional Protocols on the involvement of children in armed conflict (2000) and the sale of children, child prostitution and child pornography (2000), and other international instruments to promote and protect the human rights of children and adolescents.

Article 45. They will address the following main themes with a view to improving the promotion and protection of the human rights of children and adolescents in their respective jurisdictions and in the Andean sphere:

1. Attainment of equal rights of children and adolescents with respect to other members of society, in accordance with pertinent legislation, and the fight against all forms of discrimination against children based on race, colour, sex, language, religion, political opinion, nationality, age, economic and social condition, immigration status of the child or its parents, and any other condition.

2. Effective realization of the higher interest of children set forth in the Convention on the Rights of the Child, in the legal and institutional spheres.

3. Protection of the rights of children and adolescents to an identity and to have such identity kept in confidence in those cases contemplated by the legislation; to have a name and a nationality; to have a legal representative; to know, to the extent possible, the identity of their parents and to be cared for by them; and to a say in matters that concern them.

4. Protection of the fundamental rights of children and adolescents deprived of liberty, in accordance with national and international regulations on the subject.

5. Protection against slavery, trafficking, illicit transfer and holding of children and adolescents abroad and against illegal or arbitrary deprivation of their liberty.

6. Eradication of child labour following the elimination of all forms of labour exploitation based on the conventions of the International Labour Organization and applicable national legislations.

7. Protection against all forms of exploitation, sexual abuse and violence, including domestic violence, to which children may be subject, and implementation of the provisions of the optional Protocol to the Convention on the Rights of the Child concerning the sale of children, child prostitution and child pornography (2000).

8. Combating impunity of those who affect the rights of children, both in public and in private; and development of programmes to offer effective compensation to victims of exploitation and violence.

9. Prevention of, and punishment of those responsible for, recruitment and involvement of children and adolescents in any armed conflict; respect for the minimum recruiting age of 18 years pursuant to the provisions of the optional Protocol to the Convention on the Rights of the Child concerning the involvement of children in armed conflict (2000).

10. Adoption of a comprehensive social protection system aiming at addressing the economic, social and cultural rights of children and adolescents, formulated and executed with the help of civil society organizations involved in the promotion and protection of the rights of children.

11. The right of adolescents to receive adequate education and information for responsible sexuality.

C. Rights of older adults

Article 46. They reiterate their commitment to respect and enforce the rights and obligations designed to promote and protect the human rights of older adults.

Article 47. They will address the following main themes with a view to improving the promotion and protection of the human rights of older adults in their respective jurisdictions and in the Andean sphere:

1. Protection of older adults against all forms of discrimination and violence, including domestic violence.

2. Provision of appropriate care for older adults in public and private establishments and facilities.

3. Participation of older adults and organizations of older adults in decision-making on public issues that concern them.

4. Effective protection of the right of older adults to social security, particularly in connection with the rights and guarantees related to retirement.

5. Promotion of the participation and integration of older adults in society.

D. Rights of persons with disabilities

Article 48. They reiterate their commitment to respect and enforce the rights and obligations set forth in the United Nations Declaration on the Rights of Disabled Persons (1975); in international instruments designed to promote and protect the human rights of persons with disabilities, such as the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999); and in other declarations, resolutions and agreements on social protection adopted within the framework of the United Nations, the International Labour Organization, the World Health Organization and the Pan American Health Organization.

Article 49. They will address the following main themes with a view to improving the promotion and protection of the human rights of persons with disabilities in their respective jurisdictions and in the Andean sphere:

1. Protection against all forms of discrimination and violence against persons with disabilities.

2. Prevention of the circumstances that give rise to disabilities, through education, safety in the workplace and public information.

3. Realization of the right to social security and health of persons with disabilities.

4. Fostering of personal development through programmes that address the particular needs of persons with disabilities.

5. Integration of persons with disabilities in society through work, education and full participation in their respective national communities.

6. Provision of timely assistance, medical treatment, rehabilitation, education, professional training and personal attention to persons with disabilities, with a view to enabling them to enter the working world with dignity and on equitable conditions with respect to other workers.

7. Informing people about the rights of persons with disabilities so as to eliminate prejudice, stereotypes and discrimination about such persons.

8. Preparation of architectural design programmes in urban, rural and remote areas so as to make it easier for disabled persons to move around and use public spaces.

E. Rights of migrants and their families

Article 50. They reiterate their commitment to respect and enforce the rights and obligations set forth in international instruments designed to promote and protect the human rights of migrants and their families; and affirm their intention to continue their efforts to make the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) part of their national legislations, and will give priority to considering the possibility of signing, ratifying or acceding to it.

Article 51. They will address the following main themes with a view to improving the promotion and protection of the human rights of migrants and their families in their respective jurisdictions and in the Andean sphere:

1. Respect for the right of migrants and their families to migrate, work, transit freely and move about and to choose their place of residence freely, in accordance with national legislations and community regulations.

2. Prevention and elimination of discrimination against Andean migrants and their families in access to public education and health services, housing and lodging, social security and employment; and creation of information and assistance centres for migrants.

3. Provision of identity papers to migrants and their families, without discrimination based on race, colour, sex, age, language, religion, nationality, political opinion, sexual orientation and immigration status.

4. Reunification of migrants and their families in the country of destination and regularization of their immigration status through the appropriate legal and administrative means.

5. Protection of the family members of migrants, especially children, adolescents and older adults, who continue living in their countries of origin and have become separated from their family members as a result of the migration.

6. Joint action of the Andean Community countries to promote and protect the rights of migrants and their families in other countries and groups of countries, as well as in international and regional forums.

F. Rights of people with different sexual orientation

Article 52. They acknowledge that all persons, regardless of their sexual orientation or preference, have equal human rights.

Article 53. They will combat all forms of discrimination against individuals based on their sexual orientation or preference, in accordance with national legislations, and to this end, will pay special attention to preventing and punishing violence and discrimination against persons with different sexual orientation or preference, and to guaranteeing legal remedies for effective compensation for damages stemming from such offences.

G. Rights of internally displaced persons

Article 54. They reiterate their pledge to respect and enforce the relevant norms set forth in human rights instruments, international humanitarian law and international law with respect to refugees which are designed to protect persons who are forced or compelled to leave their homes or their habitual place of residence, in particular to avoid the effects of armed conflict, situations of generalized violence, massive violations of human rights or natural or man-made disasters, and who have not crossed over an internationally recognized State border.

Article 55. With a view to protecting the human rights of internally displaced persons in their respective jurisdictions and in the Andean sphere, they will address the following priorities:

1. They will monitor the application by public authorities of the United Nations "Guiding Principles on Internal Displacement" (1988), and work to incorporate them into the legislation of each country.

2. They will guarantee that internally displaced persons have equal rights with the other inhabitants of their countries, and will investigate, try and punish those that violate the rights and fundamental freedoms of displaced persons.

3. They will provide protection and humanitarian aid to internally displaced persons and/or facilitate the delivery of humanitarian aid by international or non-governmental organizations, in accordance with applicable international and national regulations.

4. They will endeavour to establish the conditions and provide means for the voluntary return of internally displaced persons, in safety and dignity, to their habitual place of residence, or their voluntary resettlement in other parts of the country.

H. Rights of persons deprived of liberty

Article 56. They reiterate their pledge to respect and enforce the rights and obligations set forth in international instruments with respect to persons who are deprived of their liberty.

Article 57. They will address the following main themes, with a view to safeguarding the human rights of persons who are deprived of their liberty:

1. Implementation of programmes designed to significantly improve living conditions in detention, penitential centres and prisons in each Member State, so that they conform to United Nations principles and regulations applicable to persons subject to any form of imprisonment or detention, in particular with regard to physical separation of those who have been convicted and those who are awaiting trial.

2. Adoption of measures to avoid violating the human rights of detainees by, inter alia, educating and training prison personnel on the subject, and by investigating, trying and punishing those who commit such violations.

3. Creation of programmes for the rehabilitation and social reinsertion of persons deprived of their liberty, attached to prisons and consideration of the possibility of

introducing in their legislation alternative penalties such as community work and community service.

4. Application of the principle of due process without unjustified delays as a matter of priority in the administration of justice, throughout the trial and at the sentencing, in accordance with the terms established in national legislations.

I. Human rights and the rights of refugees and stateless persons

Article 58. They reiterate their pledge to respect and enforce the rights and obligations set forth in international instruments designed to promote and protect the rights of refugees and stateless persons to which Andean Community Member States are party, in accordance with national legislations.

Article 59. They will address the following main themes, with a view to improving the promotion and protection of the human rights of refugees and stateless persons:

1. Protection of refugees and stateless persons against all forms of discrimination and violence on account of their race, colour, sex, language, religion, political opinion, nationality, sexual orientation, immigration status, age or any other condition.

2. Access to education, social and health services, housing and work, and the right to freedom of movement, expression and religion and to obtain proper documentation without any distinction whatsoever in the receiving country.

3. Effective enjoyment of their rights, in accordance with national legislation in particular the right to life, security, property, to an effective remedy when their rights are violated, respect for the standards of due process in the courts of the receiving country, to not be expelled — save in accordance with the law, but never to the country where their lives, security or liberty are at risk.

Section X
Other spheres of protection of human rights

Article 60. They recognize that the development of international human rights law leads to the consideration of other issues related to the promotion and protection of such rights, and that Andean Community Member States should encourage this evolution of the law in the national and international spheres and work together to advance the development of human rights regulations.

Section XI
Human rights and international humanitarian law

Article 61. They reaffirm their strong support for the rules of international humanitarian law set forth, inter alia, in the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977; reiterate their belief that these international instruments can ensure better protection for victims of international and non-international armed conflicts, particularly the civilian population. They urge the

parties in international and non-international armed conflicts to abide by the applicable rules of international humanitarian law.

Article 62. Within the context of the progressive development of international human rights law, they recognize the importance of its connection with international humanitarian law, in that the latter may be an instrument for interpreting the former, and they endorse the rules set forth in international conventions on these matters.

Section XII
Human rights promotion and protection mechanisms

Article 63. They declare that the Andean Charter for the Promotion and Protection of Human Rights is the first comprehensive declaration by the Andean Community on the subject of human rights in the Community sphere, and that it complements national, inter-American and universal regulations thereon. Any programme prepared within the framework of the provisions set forth in the Charter shall be coordinated with national activities, or those carried out through international cooperation by Member States in the Andean region.

National mechanisms

A. Administration of justice

Article 64. In order to promote and protect human rights in general, and the right to due process in particular, they shall take steps to ensure that Andean Community Member States have efficient, independent, impartial and autonomous systems for the administration of justice.

Article 65. They will endorse directly and, as appropriate, in coordination with each nation's judicial service, the execution of programmes designed to improve their justice administration systems, so as to, inter alia, promote the efficiency and transparency of legal procedures; combat acts of judicial corruption, unjustified delays in the administration of justice and abuse of pre-trial detention; and offer solutions to the situation of prisoners, who have not been sentenced.

Article 66. They highlight the important role of the administration of justice in each Andean Community Member State in the protection of human rights through the application of national laws and international instruments.

Article 67. They support, in accordance with national legislations, independent and autonomous administration of justice to investigate, try and punish those responsible for human rights violations and to order compensation for victims of such violations.

Article 68. They decide to promote legislative initiatives in order to bring national legislation into line with international human rights regulations and to offer judicial remedies at the national level for the protection of such rights.

Article 69. They recognize the right of every person to resort to international mechanisms for the protection of human rights and respect the subsidiary nature of such mechanisms.

B. Ombudsmen's offices

Article 70. They recognize the role of Ombudsmen's Offices as institutional guarantees for the protection of human rights, and commit themselves to respect the constitutive statutes and legal prerogatives of Ombudsmen's Offices.

Article 71. They recommend exchange of information and experiences among Andean Community Ombudsmen's Offices, in order to foster more effective management and coordination of their offices.

Article 72. They invite Ombudsmen's Offices to promote mechanisms that promote realization of the right of the people to be informed about the activities of public institutions, in accordance with the law and with the participation of organized civil society.

C. Human rights advocates

Article 73. They reiterate the commitment of Andean Community Member States to protect the human rights of human rights advocates and the legitimacy of their work, in accordance with the provisions of the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" (1999), and their will to cooperate with civil society in the promotion and protection of human rights within each country and at the regional level.

Article 74. They declare their commitment to respect the autonomy and independence of human rights advocates, supply them with the information to which they are legally entitled, to provide them with full protection for the performance of their activities when required, and to firmly and effectively investigate, try and punish all acts that threaten the fundamental freedoms and guarantees that protect human rights advocates and their organizations.

D. Human rights plans and programmes

Article 75. They welcome the recommendation of the World Conference on Human Rights, held in Vienna (1993), and of other international meetings and forums, that each country should have a national human rights plan.

Article 76. They declare their commitment to encourage the people and organizations of human rights advocates to participate in the drafting, implementation and follow-up of national human rights plans, and to issue their reports on the implementation of such national plans to public oversight institutions, civil society and the Andean Community Member States, through the General Secretariat.

Article 77. They encourage the efforts of Member States to obtain assistance bilaterally and from multilateral human rights bodies among them, the Office of the United Nations High Commissioner for Human Rights, in order to prepare national human rights plans and programmes or to update existing ones.

E. Human rights and law enforcement agencies

Article 78. They affirm that the full observance of human rights requires the necessary action of law enforcement agencies to ensure that citizen security and public order are implemented under the principle of legality and respect for human rights.

Article 79. They will establish channels of cooperation among national law enforcement agencies of Member countries, in order to develop activities aimed at promoting human rights values in such institutions and reaching their personnel about respect for the principle of legality, and, in the event of internal conflicts, about the rules of international humanitarian law.

International mechanisms

A. Cooperation with human rights treaty monitoring bodies

Article 80. They reaffirm their intent to submit in a timely manner the periodic reports that Andean Community Member Countries must present to the bodies that monitor implementation of international human rights treaties. They will encourage civil society to participate in the preparation and follow-up of reports.

Article 81. They will evaluate and, wherever pertinent, give consideration to the concluding observations made by the international human rights treaty monitoring bodies following examination of the periodic reports, and will disseminate the periodic reports and concluding observations as widely as possible.

B. Cooperation with the United Nations and Inter-American systems for the promotion and protection of human rights

Article 82. They will cooperate actively with the United Nations and Inter-American systems for the protection and promotion of human rights, and foster cooperation between the two.

Article 83. They highlight the importance of the recommendations of the Inter-American Commission on Human Rights and reiterate their commitment to comply with the decisions and resolutions of the Inter-American Court of Human Rights.

C. International Criminal Court

Article 84. In view of its significance for international human rights law, they highlight the entry into force of the Rome Statute establishing the International Criminal Court which, being supplementary and subsidiary to national jurisdictions, will contribute to the fight against impunity of those responsible for genocide, crimes against humanity, war crimes and aggression.

Article 85. They undertake to give favourable and prompt consideration to ratifying the Statute of the International Criminal Court, and will bring their national legislations into line with it.

Section XIII
Follow-up of the Andean Charter for the Promotion and Protection of Human Rights

Article 86. They agree to promote the principles and objectives of the Andean Charter for the Promotion and Protection of Human Rights through the mechanisms mentioned in this section; this does not preclude the possibility of including other follow-up ways and means through the pertinent Community channels.

Article 87. The Andean Council of Ministers for Foreign Affairs shall be the top community body in charge of the follow-up of subregional initiatives provided for in the Charter.

Article 88. The General Secretariat of the Andean Community shall provide the Andean Council of Ministers for Foreign Affairs with whatever assistance it requires in order to carry out the provisions of the preceding article.

Article 89. The Andean Council of Ministers for Foreign Affairs shall agree with the Andean Parliament on consultation mechanisms related to the contribution of this body to the implementation and follow-up of the Andean Charter for the Promotion and Protection of Human Rights.

Article 90. They invite the Ombudsmen from Andean Community Member States to follow up and monitor the implementation of the provisions of the Andean Charter relating to their powers and to meet in order to agree on the views and recommendations that they will submit to the Andean Council of Ministers for Foreign Affairs on the subject, through the General Secretariat.

Article 91. They invite civil society in Andean countries and, in particular, human rights advocacy organizations, to participate, in coordination with the General Secretariat and the Ministers for Foreign Affairs of Member States, in the follow-up activities of the Andean Charter for the Promotion and Protection of Human Rights.

Article 92. In order to follow up the Andean Charter for the Promotion and Protection of Human Rights and in addition to the activities set forth therein, the Andean Community countries shall organize regional programmes to disseminate the principles of the Andean Charter, foster an Andean culture of respect for human rights, in particular the rights of individuals and groups of individuals requiring special protection, and to encourage the development of international human rights law in new spheres, as provided for in section X of the Andean Charter.

Article 93. They recommend that national human rights plans and other programmes for the protection of human rights should take into consideration the content and provisions of the Andean Charter for the Promotion and Protection of Human Rights, and that they should, as far as possible, coordinate national activities with those derived from the implementation and follow-up of the Andean Charter.

Section XIV
General provisions

Article 94. Nothing in this Charter may be construed as limiting the enjoyment and exercise of any right or freedom recognized under the laws of any Member State or under the international human rights instruments in effect in those States.

Article 95. They hereby agree to adopt the Andean Charter for the Promotion and Protection of Human Rights in the Spanish language and to translate it into the main ancestral languages of the indigenous peoples of the Andean countries.

Section XV
Final provision

Article 96. They instruct their Ministers for Foreign Affairs, in light of the progressive evolution of international human rights law, to review the contents of this Charter every four years with a view to updating and improving it.

The Andean Council of Ministers for Foreign Affairs shall decide in due course on the binding nature of this Charter.

Done and signed in Guayaquil, on 26 July 2002.

Jorge **Quiroga Ramirez**
President of the Republic of Bolivia

Andres **Pastrana Arango**
President of the Republic of Colombia

Gustavo **Noboa Bejarano**
President of the Republic of Ecuador

Alejandro **Toledo Manrique**
President of the Republic of Peru

Hugo **Chavez Frias**
President of the Bolivarian Republic of Venezuela